

December 21, 2009

**FILED ELECTRONICALLY AND
HAND DELIVERED**

Honorable James S. Gwin
Judge, United States District Court
for the Northern District of Ohio
Carl B. Stokes United States Court House
801 West Superior Ave.
Cleveland, Ohio 44113-1830
(216) 357-7000

Re: ***In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation,***
MDL No. 2001, Civ. No. 1:08-wp-65000

Dear Your Honor:

This letter is being submitted jointly by all parties. We are writing to request modifications to the expert disclosure deadlines set forth in the Court's August 28, 2009, case management order ("CMO") (Docket No. 63). If the Court approves the following modifications to the expert disclosure deadlines, the parties believe no other deadlines will be affected. **Also, because the proposed modifications to the expert discovery deadlines are the only pressing discovery issue for the parties, the resolution of this issue on the papers would enable the Court to cancel the status conference scheduled for January 4, 2010.**

With respect to the existing deadlines in the CMO, in accordance with the Court's deadlines for service of Rule 26(a)(2) expert disclosures, on November 16, 2009, Plaintiffs disclosed to Whirlpool five expert witnesses, and Whirlpool disclosed to Plaintiffs two expert witnesses. On December 16, 2009, Whirlpool disclosed to Plaintiffs six rebuttal expert witnesses, including Whirlpool's first two expert witnesses. Because the expert issues involved in this litigation are complex and cover a number of subject matters, including mechanical and chemical engineering, statistics, microbiology, and damages, and because the parties' desire to make the expert deposition process as efficient as possible, the parties agree that Plaintiffs should have an opportunity to disclose any rebuttal expert opinions before Whirlpool takes Plaintiffs' experts' depositions. Similarly, the parties agree that Whirlpool should have an opportunity to disclose any sur-rebuttal expert opinions, if necessary to address any new matters raised in Plaintiffs' rebuttal expert opinions, before Plaintiffs take Whirlpool's experts' depositions. In

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addition, the parties agree that the parties should be permitted to take expert depositions through and including February 15, 2010, to accommodate the modified disclosure deadlines and the number of experts who will be deposed.

Accordingly, to ensure sufficient time for the parties to complete expert discovery, the parties respectfully propose the following modifications to the CMO:

- 1) Deadline for Plaintiffs to disclose their Rule 26(a)(2) rebuttal expert reports: January 4, 2010;
- 2) Deadline for Whirlpool to disclose its Rule 26(a)(2) sur-rebuttal expert reports: January 15, 2010; and
- 3) Deadline to depose experts: February 15, 2009

Further, because Plaintiffs may not have deposed all of Whirlpool's experts before Plaintiffs file their motion for class certification in the *Glazer* action on January 29, 2010, the parties agree that Plaintiffs shall not be barred from addressing Whirlpool's experts' opinions for the first time in Plaintiffs' reply in support of their motion for class certification in *Glazer*.

The parties have enclosed a proposed case management order for the Court's consideration. Paragraphs 4 and 6-10 in the proposed order merely incorporate and re-state, without modification, existing deadlines that the Court has set out in several previous orders.

The parties will make themselves available for a telephone conference to discuss the above issues at the Court's convenience. If the Court approves the proposed expert discovery deadlines, the parties agree that the status conference currently set for January 4, 2010, will be unnecessary and that the Court should cancel that conference.

Dated: December 21, 2009

Respectfully submitted,

By: /s/ Michael T. Williams
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Enclosure

cc: All Counsel of Record